

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION

KASHMIR BRAY	§	
v.	§	CIVIL ACTION NO. 5:03cv222
JANIE COCKRELL, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
AND ENTERING FINAL JUDGMENT

The Plaintiff Kashmir Bray, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Bray complained of the conditions of his confinement in the Texas Department of Criminal Justice, Institutional Division, including allegations of deliberate indifference to his safety. The Magistrate Judge issued an Initial Report on March 9, 2005, recommending dismissal of the Defendants Cockrell, Stephens, Hudson, Cook, MacDonald, Maidens, Miles, J. Wilson, and R. Wilson. Three other Defendants, Coleman, Norris, and Hawkins, remained in the lawsuit.

A copy of this Initial Report was mailed to Bray, but was returned to the Court with the notation that Bray had been released from confinement. When Bray did not notify the Court of his mailing address or current whereabouts, the Magistrate Judge issued a Report on May 9, 2005, recommending that the remaining claims in the lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the Court. The Magistrate Judge also recommended that the statute of limitations on these claims be suspended for a period of 60 days following the date of entry of final judgment. A copy of this Report was mailed to Bray at his last known address, return receipt

requested, but no objections were received; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge and has determined that this Report is correct. It is accordingly

ORDERED that the Report and the Initial Report of the Magistrate Judge are together ADOPTED as the opinion of the District Court. It is further

ORDERED that the Plaintiff's claims against the Defendants Cockrell, Stephens, Hudson, Cook, MacDonald, Maidens, Miles, J. Wilson, and R. Wilson are hereby DISMISSED with prejudice for failure to exhaust administrative remedies. Underwood v. Wilson, 151 F.3d 292, 296 (5th Cir. 1998). It is further

ORDERED that the Plaintiff's claims against the Defendants Coleman, Norris, and Hawkins are hereby DISMISSED without prejudice for failure to prosecute. It is further

ORDERED that the statute of limitations on the claims against Coleman, Norris, and Hawkins is hereby SUSPENDED for a period of sixty (60) days following the date of entry of final judgment in this action. Mills v. Criminal District Court No. 3, 837 F.2d 677 (5th Cir. 1988). Finally, it is

ORDERED that any and all motions which may be pending in this cause are hereby DENIED.

**SIGNED this 11th day of July, 2005.**



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DAVID FOLSOM  
UNITED STATES DISTRICT JUDGE